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Attorneys for Defendants
 Seoul Semiconductor, Inc., and Seoul Semiconductor,
 Ltd.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

NITCHIA CORPORATION,

Plaintiff,

v.

SEOUL SEMICONDUCTOR, LTD., SEOUL
 SEMICONDUCTOR, INC.,

Defendants.

No. 3:06-CV-0162-MMC (JCS)

**[PROPOSED] ORDER DENYING
 PLAINTIFF'S MOTION FOR
 SUMMARY JUDGMENT OF
 PATENT INFRINGEMENT,
 VALIDITY, AND SEOUL'S
 EQUITABLE DEFENSES**

Date: July 27, 2007
 Time: 9:00 a.m.
 Place: Courtroom 7, 19th Floor
 Judge: Maxine M. Chesney

Pursuant to Local Rules 56-1 and 7-2 and to this Court's standing orders,
 Defendants Seoul Semiconductor Co. Ltd. and Seoul Semiconductor, Inc. (collectively "Seoul")
 request that the Court issue an order denying Plaintiff Nichia Corporation's motion for summary
 judgment. A hearing was held on both parties' motions on July 27, 2007.

After considering the papers and arguments submitted in support of and against
 Seoul's opposition and oral argument, the Court finds as follows.

IT IS HEREBY ORDERED that:

1
2 1. Nichia's motion for summary judgment on its direct infringement claim is
3 **DENIED**. There are material issues in dispute regarding whether there is
4 substantial similarity between the patents-in-suit and the accused products.

5
6 2. Nichia's motion for summary judgment that its designs are not anticipated
7 is **DENIED**. There are material issues in dispute as to whether Plaintiffs' '388
8 and '385 patents are anticipated by the SC70 semiconductor package and the
9 D336,106 patent.

10
11 3. Nichia's motion for summary judgment that its design patents are not
12 invalid due to obviousness is **DENIED**. There are material issues in dispute as to:
13 (a) whether the patents at issue are an obvious solution to creating thinner,
14 brighter side view LEDs; (b) whether the '538 and '784 patents are obvious in
15 light of the prior art of the 215 LED; and (c) whether the '388 and '385 patents
16 are obvious in light of the prior art of the SC70 LED package.

17
18 4. Nichia's motion for summary judgment that its design patents are not
19 invalid due to functionality is **DENIED**. There are material issues in dispute as
20 to whether (a) each of the elements, as well as the overall appearance, are
21 functional; and (b) whether Nichia intended for the chosen designs to have
22 aesthetic considerations.

23
24 5. Nichia's motion for summary judgment on Seoul's unclean hands defense
25 is **DENIED**. There are disputed material issues as to whether Nichia has acted
26 fraudulently, deceitfully, or unfairly.
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